

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 834 OF 2005
WITH
CIVIL APPLICATION NO. 966 OF 2005

United India Insurance Co. .. Petitioner
versus
Vulcan Association & ors. .. Respondents

...

Mr.V.Y. Sanglikar for the petitioner.
None for the respondents.

CORAM : B.H. MARLLAPALLE, J
DATED : 22nd August 2005.

P.C.:

1. Heard Mr.Sanglikar, learned counsel for the appellant who is impleaded as defendant no.1 in S.C. Suit no. 3190 of 2005. The plaintiffs are occupants of office premises in the building owned by the

defendant no.1 and all these plaintiffs have been occupying these premises for decades. It appears that against some of the plaintiff proceedings initiated by the defendant no.1 for eviction under the Public Premises Act 19971 are pending.

2. On or about 30th May 20005,, the defendant no.1 issued instructions under the security agencies not to allow the car parkings in the compound of the building. The plaintiff no.1 addressed a letter dated 8th June 2005 and recorded its protest. As there was no response, the plaintiffs approached the City Civil Court at Mumbai. Notice of Motion was taken out for temporary injunction and by the impugned order dated 11th August 2005 by way of ad-interim relief, the defendants have been temporarily restraining from obstructing the plaintiffs from parking their cars in the compound of premises of the building by name 'Vulcan Insurance Building" at Churchgate. Notice of Motion has been directed to be registered and made returnable on 25th August 2005.. The defendants are directed to file their reply by 25th August 2005. This order of ad-interim relief has been challenged in this Court.

3. Prima facie, it appears that the facility of parking available over years is sought to be withdrawn and therefore, pending the decision on the notice of motion, the Learned Judge of the trial Court has granted temporary protection. Pendency of eviction proceedings does not, per se take away the present rights of the tenants including the usage of parking space around the building etc. Hence, there is no reason to interfere with the discretionary order passed by the Court below.

4. Appeal is therefore dismissed in limine.

5. Civil Application no.966 of 2005 does not survive and is disposed of.

B.H. MARLAPALLE, J